



GOV. MSG. NO. 1063

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 11, 2007

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: Senate Bill No. 1833 SD1 HD1 CD1

On July 10, 2007, Senate Bill No. 1833, entitled "A Bill for an Act Relating to Family Leave" became law without my signature, pursuant to Section 16 of Article III of the Constitution of the State of Hawaii.

The purpose of this bill is to allow the employee, rather than the employer, the choice of either taking unpaid leave or substituting available accrued paid leave for any part of the four-week period allowed for family leave under Hawaii's Family Leave Law.

I continue to have concerns regarding bills that legislate the relationship between employers and employees within the State of Hawaii since these legislative mandates act as a deterrent to the establishment of enterprises within our state. Matters pertaining to leave are best determined by collective bargaining negotiations, by company policies, and by cooperative working relationships between employers and employees.

Under the State Family Leave Law and accompanying administrative rules, employee rights in this area are currently safeguarded. Employers are required to give prior notice to employees if the employer intends to substitute accrued paid leave for all or part of the family leave. And, an employer cannot retroactively apply accrued paid leave against family leave after the employee has returned to work, without employee consent. Furthermore, Hawaii's Family Leave Law is consistent with the federal Family and Medical Leave Act that allows employers to require use of paid leave when a person is on family leave.

I remain concerned that this bill might discourage some employers from providing paid sick leave or other paid leave benefits to their employees since these benefits will accumulate on top of four weeks of unpaid family leave mandated in State law. However, I also recognize the importance of giving employees an opportunity to identify how they wish to take family leave when emergencies occur in their household.

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For the foregoing reasons, I allowed Senate Bill No. 1833 to become law as Act 265,
effective July 10, 2007, without my signature.

Sincerely,



LINDA LINGLE

A BILL FOR AN ACT

RELATING TO FAMILY LEAVE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that various companies
2 are arbitrarily exhausting an employee's accrued vacation time
3 while the employee is out on family leave, as current law allows
4 either the employer or employee to decide which type of leave to
5 apply to a period of family leave. The legislature further
6 finds that only the employee should make the decision to take
7 family leave as unpaid leave, or to substitute the unpaid leave
8 with accrued vacation, personal, or paid family leave.

9 The purpose of this Act is to provide an employee, not an
10 employer, the option to substitute accrued paid leave, including
11 vacation, personal, or family leave, for any part of the four-
12 week period allowed for family leave.

13 SECTION 2. Section 398-4, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) Except as otherwise provided in subsection (c), an
16 employee [~~ex-employer~~] may elect to substitute any of the
17 employee's accrued paid leaves, including but not limited to



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1 vacation, personal, or family leave for any part of the four-
2 week period in subsection (a)."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken.

5 SECTION 4. This Act shall take effect on July 1, 2007.

